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[Report No. 115–214]

To incentivize the hiring of United States workers in the Commonwealth of the Northern Mariana Islands, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 2018

Ms. MURKOWSKI introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

MARCH 20, 2018

Reported by Ms. MURKOWSKI, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To incentivize the hiring of United States workers in the Commonwealth of the Northern Mariana Islands, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 **SECTION 1. SHORT TITLE.**
- 4 This Act may be cited as the “Northern Mariana Is-
- 5 lands U.S. Workforce Act”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is—

3 (1) to increase the percentage of United States
4 workers (as defined in section 6(i) of the Joint Reso-
5 lution entitled “A Joint Resolution to approve the
6 ‘Covenant To Establish a Commonwealth of the
7 Northern Mariana Islands in Political Union with
8 the United States of America’, and for other pur-
9 poses” (48 U.S.C. 1806)) in the total workforce of
10 the Commonwealth of the Northern Mariana Is-
11 lands, while maintaining the minimum number of
12 workers who are not United States workers to meet
13 the changing demands of the Northern Mariana Is-
14 lands’ economy;

15 (2) to incentivize the hiring of United States
16 workers into such workforce; and

17 (3) to ensure that no United States worker—
18 (A) is at a competitive disadvantage for
19 employment compared to workers who are not
20 United States workers; or
21 (B) is displaced by a worker who is not a
22 United States worker.

23 **SEC. 3. TRANSITIONAL PROVISIONS.**

24 (a) IN GENERAL.—Section 6 of the Joint Resolution
25 entitled “A Joint Resolution to approve the ‘Covenant To
26 Establish a Commonwealth of the Northern Mariana Is-

1 lands in Political Union with the United States of Amer-
2 ica, and for other purposes” (48 U.S.C. 1806) is amend-
3 ed—

4 (1) in subsection (a)—

5 (A) in paragraph (2), by striking “2019”
6 and inserting “2029”; and

7 (B) by amending paragraph (6) to read as
8 follows:

9 “(6) FEES FOR TRAINING UNITED STATES
10 WORKERS.—

11 “(A) SUPPLEMENTAL FEE.—

12 “(i) IN GENERAL.—In addition to fees
13 imposed pursuant to sections 208(d)(3)
14 and 245(i), the Immigration and Nation-
15 ality Act (8 U.S.C. 1158(d)(3) and
16 1255(i)) to recover the full costs of adju-
17 dication services, the Secretary shall im-
18 pose an annual supplemental fee of \$200
19 per nonimmigrant worker on each prospec-
20 tive employer who is issued a permit under
21 subsection (d)(3) during the transition pro-
22 gram.

23 “(ii) INFLATION ADJUSTMENT.—Be-
24 ginning in fiscal year 2020, the Secretary
25 may annually adjust the fee imposed under

1 clause (i) by a percentage equal to the an-
2 nual change in the Consumer Price Index
3 for All Urban Consumers published by the
4 Bureau of Labor Statistics.

5 “(iii) USE OF FUNDS.—Amounts col-
6 lected pursuant to clause (i) shall be annu-
7 ally deposited into the Treasury of the
8 Commonwealth Government for the sole
9 and exclusive purpose of funding vocational
10 education, apprenticeships, or other train-
11 ing programs for United States workers.

12 “(B) PLAN FOR THE EXPENDITURE OF
13 FUNDS.—At the beginning of each calendar
14 year, and before any of the supplemental fees
15 are deposited into the Treasury of the Com-
16 monwealth Government for that calendar year,
17 the Commonwealth Government shall submit to
18 the Secretary of Labor—

19 “(i) a plan for the expenditures of
20 amounts deposited under subparagraph
21 (A)(iii);

22 “(ii) a projection of the effectiveness
23 of such expenditures in the placement of
24 United States workers into jobs held by
25 non-United States workers; and

1 “(iii) a report on the changes in em-
2 ployment of United States workers attrib-
3 utable to expenditures of such amounts
4 during the previous year.

5 “(C) PAYMENT RESTRICTION.—Payments
6 may not be made from amounts deposited
7 under subparagraph (A)(iii) until after the Sec-
8 retary of Labor has approved the expenditure
9 plan submitted under subparagraph (B)(i).

10 “(D) REPORT.—The Secretary of Labor
11 shall submit an annual report to Congress that
12 describes the effectiveness of the Common-
13 wealth Government at meeting the goals set
14 forth in the expenditure plan submitted under
15 subparagraph (B)(i).”;

16 (2) in subsection (b), by adding at the end the
17 following:

18 “(3) REPORT.—Not later than 3 years after the
19 date of the enactment of the Northern Mariana Is-
20 lands U.S. Workforce Act, the Secretary shall sub-
21 mit a report to the Committee on Energy and Nat-
22 ural Resources of the Senate, the Committee on the
23 Judiciary of the Senate, the Committee on Natural
24 Resources of the House of Representatives, and the

1 Committee on the Judiciary of the House of Rep-
2 resentatives that—

3 “(A) projects the number of asylum claims
4 the Secretary anticipates following the termi-
5 nation of the transition period; and

6 “(B) describes the efforts of the Secretary
7 to ensure appropriate interdiction efforts, pro-
8 vide for appropriate treatment of asylum seek-
9 ers, and prepare to accept and adjudicate asy-
10 lum claims in the Commonwealth.”;

11 (3) in subsection (d)—

12 (A) by redesignating paragraphs (2)
13 through (5) as paragraphs (3) through (6), re-
14 spectively;

15 (B) by inserting after paragraph (1) the
16 following:

17 “(2) PROTECTION FOR UNITED STATES WORK-
18 ERS.—

19 “(A) FOREIGN LABOR CERTIFICATION.—

20 “(i) IN GENERAL.—Before applying
21 for a nonimmigrant worker permit under
22 this subsection, a prospective employer
23 shall obtain a certification from the De-
24 partment of Labor confirming the prospec-
25 tive employer’s assertion that—

1 “(I) no qualified United States
2 worker is able, willing, qualified, and
3 available to accept the proposed job at
4 the prevailing wage for that occupa-
5 tion in the Commonwealth; and

6 “(II) employment of the foreign
7 worker will not adversely affect the
8 wages and working conditions of simi-
9 larly employed United States workers.

10 “(ii) PETITION.—After receiving a
11 certification under clause (i), a prospective
12 employer may submit a petition to U.S.
13 Citizenship and Immigration Services for a
14 Commonwealth Only Transitional Worker
15 permit on behalf of the foreign worker.

16 “(B) PREVAILING WAGE SURVEY.—In
17 order to effectuate the requirement for foreign
18 labor certification, the Department of Labor
19 shall conduct periodic prevailing wage surveys
20 in the Commonwealth.

21 “(C) MINIMUM WAGE.—An employer shall
22 pay each Commonwealth Only Transitional
23 Worker a wage that is not less than the greater
24 of—

1 “(i) the statutory minimum wage in
2 the Commonwealth;

3 “(ii) the Federal minimum wage;

4 “(iii) the prevailing wage in the Commonwealth for the occupation in which the
5 worker is employed; or

6 “(iv) the actual wage level paid by the
7 employer to any other individual employed
8 in the same occupation.”;

9
10 (C) by amending paragraph (3), as redesignated, to read as follows:

11 **“(3) PERMITS.—**

12 **“(A) IN GENERAL.**—The Secretary shall
13 establish, administer, and enforce a system for
14 allocating and determining the number, terms,
15 and conditions of permits to be issued to pro-
16 spective employers for each such nonimmigrant
17 worker described in this subsection who would
18 not otherwise be eligible for admission under
19 the Immigration and Nationality Act (8 U.S.C.
20 §101 et seq.).

21 **“(B) COMMENTS FROM GOVERNOR.**—In
22 carrying out this paragraph, the Secretary—

23 “(i) shall consider, in good faith, any
24 comments or advice submitted by the Gov-

1 ernor of the Commonwealth, including any
2 recommendation to reserve a number of
3 permits each year for occupational cat-
4 egories necessary to maintain public health
5 or safety in the Commonwealth;

6 “(ii) shall, not later than 30 days
7 after the receipt of such comments or ad-
8 vice, submit a written response to the Gov-
9 ernor; and

10 “(iii) in the Secretary’s sole discre-
11 tion, may make the reservation of permits
12 recommended by the Governor.

13 “(C) NUMERICAL CAP.—The number of
14 permits issued under subparagraph (A) may
15 not exceed 13,000 during fiscal year 2019.

16 “(D) ANNUAL ADJUSTMENTS.—Beginning
17 in fiscal year 2020, and annually thereafter, the
18 number of permits issued under subparagraph
19 (A) may not exceed a number that is 500 fewer
20 than the number of permits that were issued
21 during the immediately preceding fiscal year.

22 “(E) REPORTS REGARDING THE PERCENT-
23 AGE OF DOMESTIC WORKERS.—

24 “(i) BY GOVERNOR.—Not later than
25 60 days before the end of each calendar

1 year, the Governor shall submit a report to
2 the Secretary that identifies the ratio be-
3 tween domestic workers to non-domestic
4 workers in the Commonwealth's workforce
5 based on income tax filings with the Com-
6 monwealth for the tax year.

7 “(ii) BY GAO.—Not later than Decem-
8 ber 31, 2019, and biennially thereafter, the
9 Comptroller General of the United States
10 shall submit a report to the Chair and
11 Ranking Member of the Committee on En-
12 ergy and Natural Resources of the Senate
13 and the Chair and Ranking Member of the
14 Committee on Natural Resources of the
15 House of Representatives that identifies
16 the ratio between domestic workers and
17 non-domestic workers in the Common-
18 wealth's workforce during each of the pre-
19 vious 5 calendar years.

20 “(F) APPLICATION; ISSUANCE OF PER-
21 MITS.—

22 “(i) SUBMISSION.—A prospective em-
23 ployer may submit an application—

24 “(I) for a new permit 180 days
25 before the beginning of the allocation

1 year in which the permit will become
2 effective; or

3 “(II) for the renewal of an exist-
4 ing permit 180 days before the end of
5 the allocation year in which the exist-
6 ing permit expires.

7 “(ii) ADJUDICATION.—The Secretary
8 shall adjudicate an application for a permit
9 submitted pursuant to clause (i) not later
10 than 60 days after the receipt of such ap-
11 plication.

12 “(iii) EMPLOYMENT VERIFICATION.—
13 The Secretary shall establish a system for
14 each employer of a Commonwealth Only
15 Transitional Worker to submit a quarterly
16 report to the U.S. Immigration and Cus-
17 toms Enforcement office in the Common-
18 wealth that provides evidence to verify the
19 continuing employment and payment of
20 such worker under the terms and conditions
21 set forth in the permit petition that
22 the employer filed on behalf of such work-
23 er.

24 “(iv) REVOCATION.—

1 “(I) IN GENERAL.—The Sec-
2 retary may revoke a permit approved
3 under this paragraph if—

4 “(aa) the employer fails to
5 maintain the continuous employ-
6 ment of the subject worker, fails
7 to pay the subject worker, or
8 commits any other violation of
9 the terms and conditions of em-
10 ployment; or

11 “(bb) the beneficiary of such
12 petition does not apply for a visa
13 within 60 days after the approval
14 of such petition.

15 “(II) USE OF REVOKED PETI-
16 TION.—A revoked petition under this
17 paragraph shall be immediately avail-
18 able for use within the same fiscal
19 year for which the petition was ap-
20 proved and shall not be further count-
21 ed against the numerical limit for that
22 year.

23 “(v) LEGITIMATE BUSINESS.—

1 “(I) IN GENERAL.—A prospective
2 employer that is not a legitimate busi-
3 ness may not be granted a petition.

4 “(II) DEFINED TERM.—In this
5 clause, the term ‘legitimate business’
6 means a real, active, and operating
7 commercial or entrepreneurial under-
8 taking that the Secretary, in the Sec-
9 retary’s sole discretion, determines—

10 “(aa) produces services or
11 goods for profit, or is a govern-
12 mental, charitable, or other val-
13 idly recognized nonprofit entity;

14 “(bb) meets applicable legal
15 requirements for doing business
16 in the Commonwealth;

17 “(ee) has substantially com-
18 plied with wage and hour laws,
19 occupational safety and health
20 requirements, and all other Fed-
21 eral requirements related to em-
22 ployment during the preceding 5
23 years; and

24 “(dd) does not directly or in-
25 directly engage in prostitution,

1 human trafficking, or any other
2 activity that is illegal under Fed-
3 eral or Commonwealth law.

5 A permit for Construction and Extraction
6 Occupations (as defined by the Department
7 of Labor as Standard Occupational
8 Classification Group 47-0000) may only be
9 issued to extend a permit that was first
10 issued before October 1, 2015.”;

21 (F) by adding at the end the following:

~~"(7) CW-3 WORKERS.—~~

1 “(i) was admitted to the Commonwealth
2 as a Commonwealth Only Transitional Worker during fiscal year 2014 and
3 every subsequent fiscal year beginning before the date of the enactment of the
4 Northern Mariana Islands U.S. Workforce
5 Act; and
6

7 “(ii) is otherwise admissible.

8 “(B) PERMIT.—

9 “(i) IN GENERAL.—Each CW-3 worker
10 shall be deemed to have met the foreign
11 labor certification requirement under para-
12 graph (2) and, upon application, shall be
13 issued a permit to remain in the Common-
14 wealth during the 3-year period beginning
15 on the date of the enactment of the North-
16 ern Mariana Islands U.S. Workforce Act.

17 “(ii) RENEWAL.—The permit issued
18 under clause (i) may be renewed in 3-year
19 increments during the transition period de-
20 scribed in subsection (a)(2) if the alien re-
21 mains outside of the United States for a
22 continuous period of not less than 30 days
23 during the 180-day period immediately
24 preceding each such renewal.

1 “(iii) NUMERICAL LIMITATION.—Each
2 permit issued under clause (i) shall count
3 against the annual numerical limitations
4 set forth in subparagraphs (C) and (D) of
5 paragraph (3).

6 “(C) ROSTER.—The Secretary shall main-
7 tain a roster of aliens in this category.

8 “(D) FEE.—Employers of CW-3 workers
9 shall be subject to the annual education fee
10 under subsection (a)(6).

11 “(8) REQUIREMENT TO REMAIN OUTSIDE OF
12 THE UNITED STATES.—Except as provided in para-
13 graph (7), the permit for a Commonwealth Only
14 Transitional Worker may not be renewed for more
15 than 2 consecutive years. An alien may not again be
16 eligible for such a permit until after the alien has re-
17 mained outside of the United States for a contin-
18 uous period of not less than 30 days.”; and

19 (4) by adding at the end the following:

20 “(i) DEFINITIONS.—In this section:

21 “(1) ALLOCATION YEAR.—The term ‘allocation
22 year’ means the fiscal year immediately following the
23 current year.

1 “(2) COMMONWEALTH.—The term ‘Common-
2 wealth’ means the Commonwealth of the Northern
3 Mariana Islands.

4 “(3) COMMONWEALTH ONLY TRANSITION
5 WORKER.—The term ‘Commonwealth Only Transi-
6 tion Worker’ means an alien who has been admitted
7 into the Commonwealth under the transition pro-
8 gram for the purposes of a permit provided under
9 subsection (d)(3).

10 “(4) CURRENT YEAR.—The term ‘current year’
11 means the fiscal year in which an allocation is deter-
12 mined for the allocation year.

13 “(5) DOMESTIC WORKER.—The term ‘domestic
14 worker’ means any worker who is—

15 “(A) a United States worker; or

16 “(B) a citizen of the Republic of the Mar-
17 shall Islands, the Federated States of Micro-
18 nesia, or the Republic of Palau (known collec-
19 tively as the ‘Freely Associated States’) who
20 has been lawfully admitted to the United States
21 pursuant to—

22 “(i) section 141 of the Compact of
23 Free Association between the Government
24 of the United States and the Governments
25 of the Marshall Islands and the Federated

1 States of Micronesia (48 U.S.C. 1921
2 note); or

3 “(ii) section 141 of the Compact of
4 Free Association between the United
5 States and the Government of Palau (48
6 U.S.C. 1931 note).

7 “(6) GOVERNOR.—The term ‘Governor’ means
8 the Governor of the Commonwealth of the Northern
9 Mariana Islands.

10 “(7) SECRETARY.—The term ‘Secretary’ means
11 the Secretary of Homeland Security.

12 “(8) TAX YEAR.—The term ‘tax year’ means
13 the fiscal year immediately preceding the current
14 year.

15 “(9) UNITED STATES WORKER.—The term
16 ‘United States worker’ means any worker who is—
17 “(A) a citizen or national of the United
18 States; or

19 “(B) an alien who has been—

20 “(i) lawfully admitted for permanent
21 residence;

22 “(ii) admitted as a refugee under sec-
23 tion 207 of the Immigration and Nation-
24 ality Act (8 U.S.C. 1157); or

1 “(iii) granted asylum under section
2 208 of such Act (8 U.S.C. 1158).”.

3 (b) RULEMAKING.—Not later than 60 days after the
4 date of the enactment of this Act, the Secretary of Home-
5 land Security shall publish regulations in the Federal Reg-
6 ister to implement the amendments made by subsection
7 (a).

8 (e) DEPARTMENT OF THE INTERIOR TECHNICAL AS-
9 SISTANCE.—Not later than October 1, 2019, and bienni-
10 ally thereafter, the Secretary of the Interior shall submit
11 a report to Congress that describes the fulfillment of the
12 Department of the Interior’s responsibilities to the Com-
13 monwealth of the Northern Mariana Islands—

14 (1) to identify opportunities for economic
15 growth and diversification;

16 (2) to provide assistance in recruiting, training,
17 and hiring United States workers; and

18 (3) to provide such other technical assistance
19 and consultation as outlined in section 702(e) of the
20 Consolidated Natural Resources Act of 2008 (48
21 U.S.C. 1807).

22 **SECTION 1. SHORT TITLE.**

23 This Act may be cited as the “Northern Mariana Is-
24 lands U.S. Workforce Act”.

1 **SEC. 2. PURPOSES.**

2 *The purposes of this Act are—*

3 *(1) to increase the percentage of United States*
4 *workers (as defined in section 6(i) of the Joint Reso-*
5 *lution entitled “A Joint Resolution to approve the*
6 *‘Covenant To Establish a Commonwealth of the*
7 *Northern Mariana Islands in Political Union with*
8 *the United States of America’, and for other pur-*
9 *poses” (48 U.S.C. 1806)) in the total workforce of the*
10 *Commonwealth of the Northern Mariana Islands,*
11 *while maintaining the minimum number of workers*
12 *who are not United States workers to meet the chang-*
13 *ing demands of the Northern Mariana Islands’ econ-*
14 *omy;*

15 *(2) to encourage the hiring of United States*
16 *workers into such workforce; and*

17 *(3) to ensure that no United States worker—*

18 *(A) is at a competitive disadvantage for em-*
19 *ployment compared to a worker who is not a*
20 *United States worker; or*

21 *(B) is displaced by a worker who is not a*
22 *United States worker.*

23 **SEC. 3. TRANSITIONAL PROVISIONS.**

24 *(a) IN GENERAL.—Section 6 of the Joint Resolution*
25 *entitled “A Joint Resolution to approve the ‘Covenant To*
26 *Establish a Commonwealth of the Northern Mariana Is-*

1 lands in Political Union with the United States of Amer-
2 ica', and for other purposes" (48 U.S.C. 1806) is amend-
3 ed—

4 (1) in subsection (a)—

5 (A) in paragraph (2), by striking "2019"
6 and inserting "2029"; and

7 (B) by amending paragraph (6) to read as
8 follows:

9 "(6) FEES FOR TRAINING UNITED STATES WORK-
10 ERS.—

11 "(A) SUPPLEMENTAL FEE.—

12 "(i) IN GENERAL.—In addition to fees
13 imposed pursuant to section 286(m) of the
14 Immigration and Nationality Act (8 U.S.C.
15 1356(m)) to recover the full costs of adju-
16 dication services, the Secretary shall impose
17 an annual supplemental fee of \$200 per
18 nonimmigrant worker on each prospective
19 employer who is issued a permit under sub-
20 section (d)(3) during the transition pro-
21 gram. A prospective employer that is issued
22 a permit with a validity period of longer
23 than 1 year shall pay the fee for each year
24 of requested validity at the time the permit
25 is issued.

1 “(ii) *INFLATION ADJUSTMENT.*—Beginning
2 in fiscal year 2020, the Secretary,
3 through notice in the Federal Register, may
4 annually adjust the supplemental fee im-
5 posed under clause (i) by a percentage equal
6 to the annual change in the Consumer Price
7 Index for All Urban Consumers published
8 by the Bureau of Labor Statistics.

9 “(iii) *USE OF FUNDS.*—Amounts col-
10 lected pursuant to clause (i) shall be depos-
11 ited into the Treasury of the Commonwealth
12 Government for the sole and exclusive pur-
13 pose of funding vocational education, ap-
14 prenticeships, or other training programs
15 for United States workers.

16 “(iv) *FRAUD PREVENTION AND DETEC-*
17 *TION FEE.*—In addition to the fees described
18 in clause (i), the Secretary—

19 “(I) shall impose, on each pro-
20 spective employer filing a petition
21 under this subsection for 1 or more
22 nonimmigrant workers, a \$50 fraud
23 prevention and detection fee; and

24 “(II) shall deposit and use the fees
25 collected under subclause (I) in accord-

4 “(B) PLAN FOR THE EXPENDITURE OF
5 FUNDS.—Not later than 120 days before the first
6 day of fiscal year 2020, and annually thereafter,
7 the Governor of the Commonwealth Government
8 shall submit to the Secretary of Labor—

16 “(iii) a report on the changes in em-
17 ployment of United States workers attrib-
18 utable to expenditures of such amounts dur-
19 ing the previous year.

“(C) DETERMINATION AND REPORT.—Not later than 120 days after receiving each expenditure plan under subparagraph (B)(i), the Secretary of Labor shall—

1 “(ii) submit a report to Congress that
2 describes the effectiveness of the Common-
3 wealth Government at meeting the goals set
4 forth in such plan.

5 “(D) PAYMENT RESTRICTION.—Payments
6 may not be made in a fiscal year from amounts
7 deposited under subparagraph (A)(iii) before the
8 Secretary of Labor has approved the expenditure
9 plan submitted under subparagraph (B)(i) for
10 that fiscal year.”;

11 (2) in subsection (b), by adding at the end the
12 following:

13 “(3) REPORT.—Not later than December 1, 2027,
14 the Secretary shall submit a report to the Committee
15 on Energy and Natural Resources of the Senate, the
16 Committee on the Judiciary of the Senate, the Com-
17 mittee on Natural Resources of the House of Rep-
18 resentatives, and the Committee on the Judiciary of
19 the House of Representatives that—

20 “(A) projects the number of asylum claims
21 the Secretary anticipates following the termi-
22 nation of the transition period; and

23 “(B) describes the efforts of the Secretary to
24 ensure appropriate interdiction efforts, provide
25 for appropriate treatment of asylum seekers, and

1 *prepare to accept and adjudicate asylum claims*
2 *in the Commonwealth.”;*

3 *(3) in subsection (d)—*

4 *(A) by redesignating paragraphs (2)*
5 *through (5) as paragraphs (3) through (6), re-*
6 *spectively;*

7 *(B) by inserting after paragraph (1) the fol-*
8 *lowing:*

9 “*(2) PROTECTION FOR UNITED STATES WORK-*
10 *ERS.*—

11 “*(A) TEMPORARY LABOR CERTIFICATION.—*

12 “*(i) IN GENERAL.—Beginning in fiscal*
13 *year 2020, a petition to import a non-*
14 *immigrant worker under this subsection*
15 *may not be approved by the Secretary un-*
16 *less the petitioner has applied to the Sec-*
17 *retary of Labor for a temporary labor cer-*
18 *tification confirming that—*

19 “*(I) there are not sufficient*
20 *United States workers in the Common-*
21 *wealth who are able, willing, qualified,*
22 *and available at the time and place*
23 *needed to perform the services or labor*
24 *involved in the petition; and*

1 “(II) employment of the non-
2 immigrant worker will not adversely
3 affect the wages and working condi-
4 tions of similarly employed United
5 States workers.

6 “(ii) *PETITION*.—After receiving a
7 temporary labor certification under clause
8 (i), a prospective employer may submit a
9 petition to the Secretary for a Common-
10 wealth Only Transitional Worker permit on
11 behalf of the nonimmigrant worker.

12 “(B) *PREVAILING WAGE SURVEY*.—

13 “(i) *IN GENERAL*.—In order to effec-
14 tuate the requirement for a temporary labor
15 certification under subparagraph (A)(i), the
16 Secretary of Labor shall use, or make avail-
17 able to employers, an occupational wage
18 survey conducted by the Governor that the
19 Secretary of Labor has determined meets the
20 statistical standards for determining pre-
21 vailing wages in the Commonwealth on an
22 annual basis.

23 “(ii) *ALTERNATIVE METHOD FOR DE-*
24 *TERMINATING THE PREVAILING WAGE*.—In the
25 absence of an occupational wage survey ap-

1 *proved by the Secretary of Labor under*
2 *clause (i), the prevailing wage for an occu-*
3 *pation in the Commonwealth shall be the*
4 *arithmetic mean of the wages of workers*
5 *similarly employed in the territory of*
6 *Guam according to the wage component of*
7 *the Occupational Employment Statistics*
8 *Survey conducted by the Bureau of Labor*
9 *Statistics.*

10 “(C) *MINIMUM WAGE.*—*An employer shall*
11 *pay each Commonwealth Only Transitional*
12 *Worker a wage that is not less than the greater*
13 *of—*

14 “(i) *the statutory minimum wage in*
15 *the Commonwealth;*

16 “(ii) *the Federal minimum wage; or*

17 “(iii) *the prevailing wage in the Com-*
18 *monwealth for the occupation in which the*
19 *worker is employed.”;*

20 (C) *by amending paragraph (3), as redesign-*
21 *nated, to read as follows:*

22 “(3) *PERMITS.*—

23 “(A) *IN GENERAL.*—*The Secretary shall es-*
24 *tablish, administer, and enforce a system for al-*
25 *locating and determining terms and conditions*

1 *of permits to be issued to prospective employers*
2 *for each nonimmigrant worker described in this*
3 *subsection who would not otherwise be eligible for*
4 *admission under the Immigration and Nation-*
5 *ality Act (8 U.S.C. 1101 et seq.).*

6 “(B) NUMERICAL CAP.—The number of per-
7 mits issued under subparagraph (A) may not ex-
8 ceed—

9 “(i) 13,000 for fiscal year 2019;
10 “(ii) 12,500 for fiscal year 2020;
11 “(iii) 12,000 for fiscal year 2021;
12 “(iv) 11,500 for fiscal year 2022;
13 “(v) 11,000 for fiscal year 2023;
14 “(vi) 10,000 for fiscal year 2024;
15 “(vii) 9,000 for fiscal year 2025;
16 “(viii) 8,000 for fiscal year 2026;
17 “(ix) 7,000 for fiscal year 2027;
18 “(x) 6,000 for fiscal year 2028;
19 “(xi) 5,000 for fiscal year 2029; and
20 “(xii) 1,000 for the first quarter of fis-
21 *cal year 2030.*

22 “(C) REPORTS REGARDING THE PERCENT-
23 AGE OF UNITED STATES WORKERS.—

24 “(i) BY GOVERNOR.—Not later than 60
25 *days before the end of each calendar year,*

1 *the Governor shall submit a report to the*
2 *Secretary that identifies the ratio between*
3 *United States workers and other workers in*
4 *the Commonwealth's workforce based on in-*
5 *come tax filings with the Commonwealth for*
6 *the tax year.*

7 “*(ii) BY GAO.—Not later than Decem-*
8 *ber 31, 2019, and biennially thereafter, the*
9 *Comptroller General of the United States*
10 *shall submit a report to the Chair and*
11 *Ranking Member of the Committee on En-*
12 *ergy and Natural Resources of the Senate,*
13 *the Chair and Ranking Member of the Com-*
14 *mittee on Natural Resources of the House of*
15 *Representatives, the Chair and Ranking*
16 *Member of the Committee on Health, Edu-*
17 *cation, Labor, and Pensions of the Senate*
18 *and the Chair and Ranking Member of the*
19 *Committee on Education and the Workforce*
20 *of the House of Representatives that identi-*
21 *fies the ratio between United States workers*
22 *and other workers in the Commonwealth's*
23 *workforce during each of the previous 5 cal-*
24 *endar years.*

25 “*(D) PETITION; ISSUANCE OF PERMITS.—*

1 “(i) *SUBMISSION.*—A prospective em-
2 ployer may submit a petition for a permit
3 under this paragraph not earlier than—

4 “(I) 120 days before the date on
5 which the prospective employer needs
6 the beneficiary’s services; or

7 “(II) if the petition is for the re-
8 newal of an existing permit, not ear-
9 lier than 180 days before the expira-
10 tion of such permit.

11 “(ii) *EMPLOYMENT VERIFICATION.*—
12 The Secretary shall establish a system for
13 each employer of a Commonwealth Only
14 Transitional Worker to submit a semi-
15 annual report to the Secretary and the Sec-
16 retary of Labor that provides evidence to
17 verify the continuing employment and pay-
18 ment of such worker under the terms and
19 conditions set forth in the permit petition
20 that the employer filed on behalf of such
21 worker.

22 “(iii) *REVOCATION.*—

23 “(I) *IN GENERAL.*—The Secretary,
24 in the Secretary’s discretion, may re-
25 voke a permit approved under this

1 *paragraph for good cause, including*
2 *if—*

3 “(aa) *the employer fails to*
4 *Maintain the continuous employ-*
5 *ment of the subject worker, fails to*
6 *pay the subject worker, fails to*
7 *timely file a semiannual report*
8 *required under this paragraph, or*
9 *commits any other violation of the*
10 *terms and conditions of employ-*
11 *ment;*

12 “(bb) *the beneficiary of such*
13 *petition does not apply for admis-*
14 *sion to the Commonwealth by the*
15 *date that is 10 days after the pe-*
16 *riod of petition validity begins, if*
17 *the employer has requested con-*
18 *sular processing; or*

19 “(cc) *the employer fails to*
20 *provide a former, current, or pro-*
21 *spective Commonwealth Only*
22 *Transitional Worker, not later*
23 *than 21 business days after receiv-*
24 *ing a written request from such*
25 *worker, with the original (or a*

*certified copy of the original) of
all petitions, notices, and other
written communication related to
the worker (other than sensitive fi-
nancial or proprietary informa-
tion of the employer, which may
be redacted) that has been ex-
changed between the employer and
the Department of Labor, the De-
partment of Homeland Security,
or any other Federal agency or
department.*

“(II) REALLOCATION OF REVOKED
PETITION.—Notwithstanding subparagraph (C), for each permit revoked under subclause (I) in a fiscal year, an additional permit shall be made available for use in the subsequent fiscal year.

20 “(iv) LEGITIMATE BUSINESS.—

21 “(I) IN GENERAL.—A permit may
22 not be approved for a prospective em-
23 ployer that is not a legitimate busi-
24 ness.

1 “(II) *DEFINED TERM.*—In this
2 *clause, the term ‘legitimate business’*
3 *means a real, active, and operating*
4 *commercial or entrepreneurial under-*
5 *taking that the Secretary, in the Sec-*
6 *retary’s sole discretion, determines—*

7 “(aa) *produces services or*
8 *goods for profit, or is a govern-*
9 *mental, charitable, or other val-*
10 *idly recognized nonprofit entity;*

11 “(bb) *meets applicable legal*
12 *requirements for doing business in*
13 *the Commonwealth;*

14 “(cc) *has substantially com-*
15 *plied with wage and hour laws,*
16 *occupational safety and health re-*
17 *quirements, and all other Federal*
18 *and Commonwealth requirements*
19 *related to employment during the*
20 *preceding 5 years;*

21 “(dd) *does not directly or in-*
22 *directly engage in prostitution,*
23 *human trafficking, or any other*
24 *activity that is illegal under Fed-*
25 *eral or Commonwealth law; and*

1 “(ee) is a participant in
2 good standing in the E-Verify
3 program.

4 “(v) CONSTRUCTION OCCUPATIONS.—A
5 permit for Construction and Extraction Oc-
6 cupations (as defined by the Department of
7 Labor as Standard Occupational Classifica-
8 tion Group 47-0000) may not be issued for
9 any worker other than a worker described
10 in paragraph (7)(B).”;

11 (D) in paragraph (4), as redesignated, by
12 inserting “or to Guam for the purpose of transit
13 only” after “except admission to the Common-
14 wealth”;

15 (E) in paragraph (5), as redesignated, by
16 adding at the end the following: “Approval of a
17 petition filed by the new employer with a start
18 date within the same fiscal year as the current
19 permit shall not count against the numerical
20 limitation for that period.”; and

21 (F) by adding at the end the following:

22 “(7) REQUIREMENT TO REMAIN OUTSIDE OF THE
23 UNITED STATES.—

24 “(A) IN GENERAL.—Except as provided in
25 subparagraph (B)—

1 “(i) a permit for a Commonwealth
2 Only Transitional Worker—

3 “(I) shall remain valid for a pe-
4 riod that may not exceed 1 year; and

5 “(II) may be renewed for not
6 more than 2 consecutive, 1-year peri-
7 ods; and

8 “(ii) at the expiration of the second re-
9 newal period, an alien may not again be el-
10 igible for such a permit until after the alien
11 has remained outside of the United States
12 for a continuous period of at least 30 days.

13 “(B) LONG-TERM WORKERS.—An alien who
14 was admitted to the Commonwealth as a Com-
15 monwealth Only Transitional Worker during fis-
16 cal year 2015, and during every subsequent fis-
17 cal year beginning before the date of the enact-
18 ment of the Northern Mariana Islands U.S.
19 Workforce Act, may receive a permit for a Com-
20 monwealth Only Transitional Worker that is
21 valid for a period that may not exceed 3 years
22 and may be renewed for additional 3-year peri-
23 ods during the transition period. A permit
24 issued under this subparagraph shall be counted

1 *toward the numerical cap for each fiscal year*
2 *within the period of petition validity.”; and*
3 *(4) by adding at the end the following:*

4 “(i) *DEFINITIONS.*—*In this section:*

5 “(1) *COMMONWEALTH.*—*The term ‘Common-*
6 *wealth’ means the Commonwealth of the Northern*
7 *Mariana Islands.*

8 “(2) *COMMONWEALTH ONLY TRANSITION WORK-*
9 *ER.*—*The term ‘Commonwealth Only Transition*
10 *Worker’ means an alien who has been admitted into*
11 *the Commonwealth under the transition program and*
12 *is eligible for a permit under subsection (d)(3).*

13 “(3) *GOVERNOR.*—*The term ‘Governor’ means*
14 *the Governor of the Commonwealth of the Northern*
15 *Mariana Islands.*

16 “(4) *SECRETARY.*—*The term ‘Secretary’ means*
17 *the Secretary of Homeland Security.*

18 “(5) *TAX YEAR.*—*The term ‘tax year’ means the*
19 *fiscal year immediately preceding the current fiscal*
20 *year.*

21 “(6) *UNITED STATES WORKER.*—*The term*
22 *‘United States worker’ means any worker who is—*

23 “(A) *a citizen or national of the United*
24 *States;*

1 “(B) an alien who has been lawfully admitted for permanent residence; or

3 “(C) a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia,
4 or the Republic of Palau (known collectively as
5 the ‘Freely Associated States’) who has been lawfully admitted to the United States pursuant
6 to—

9 “(i) section 141 of the Compact of Free
10 Association between the Government of the
11 United States and the Governments of the
12 Marshall Islands and the Federated States
13 of Micronesia (48 U.S.C. 1921 note); or

14 “(ii) section 141 of the Compact of
15 Free Association between the United States
16 and the Government of Palau (48 U.S.C.
17 1931 note).”.

18 (b) RULEMAKING.—

19 (1) SECRETARY OF HOMELAND SECURITY.—Notwithstanding the requirements under section 553(b) of
20 title 5, United States Code, the Secretary of Homeland Security shall publish in the Federal Register,
21 not later than 180 days after the date of the enactment of this Act, an interim final rule that specifies
22 how the Secretary intends to implement the amend-

1 *ments made by subsection (a) that relate to the re-*
2 *sponsibilities of the Secretary.*

3 (2) *SECRETARY OF LABOR.*—*Notwithstanding the*
4 *requirements under section 553(b) of title 5, United*
5 *States Code, the Secretary of Labor shall publish in*
6 *the Federal Register, not later than 180 days after the*
7 *date of the enactment of this Act, an interim final*
8 *rule that specifies how the Secretary intends to imple-*
9 *ment the amendments made by subsection (a) that re-*
10 *late to the responsibilities of the Secretary.*

11 (3) *RECOMMENDATIONS OF THE GOVERNOR.*—*In*
12 *developing the interim final rules under paragraphs*
13 *(1) and (2), the Secretary of Homeland Security and*
14 *the Secretary of Labor—*

15 (A) *shall each consider, in good faith, any*
16 *written public recommendations regarding the*
17 *implementation of this Act that are submitted by*
18 *the Governor of the Commonwealth not later*
19 *than 60 days after the date of the enactment of*
20 *this Act; and*

21 (B) *may include provisions in such rule*
22 *that are responsive to any recommendation of*
23 *the Governor that is not inconsistent with this*
24 *Act, including a recommendation to reserve a*
25 *number of permits each year for occupational*

1 *categories necessary to maintain public health or*
2 *safety in the Commonwealth.*

3 (c) *DEPARTMENT OF THE INTERIOR TECHNICAL AS-*
4 *SISTANCE.—Not later than October 1, 2019, and biennially*
5 *thereafter, the Secretary of the Interior shall submit a re-*
6 *port to Congress that describes the fulfillment of the Depart-*
7 *ment of the Interior’s responsibilities to the Commonwealth*
8 *of the Northern Mariana Islands—*

9 (1) *to identify opportunities for economic growth*
10 *and diversification;*

11 (2) *to provide assistance in recruiting, training,*
12 *and hiring United States workers; and*

13 (3) *to provide such other technical assistance and*
14 *consultation as outlined in section 702(e) of the Con-*
15 *solidated Natural Resources Act of 2008 (48 U.S.C.*
16 *1807).*

17 (d) *OUTREACH AND TRAINING.—Not later than 120*
18 *days after the date on which the Secretary of Labor pub-*
19 *lishes an interim final rule in the Federal Register in ac-*
20 *cordance with subsection (b)(2), the Secretary shall conduct*
21 *outreach and training in the Commonwealth of the North-*
22 *Mariana Islands for employers and workers on the for-*
23 *eign labor certification process set forth in section 6 of the*
24 *Joint Resolution entitled “A Joint Resolution to approve*
25 *the ‘Covenant To Establish a Commonwealth of the North-*

1 *ern Mariana Islands in Political Union with the United*
2 *States of America', and for other purposes", as amended*
3 *by subsection (b), including the minimum wage require-*
4 *ment set forth in subsection (d)(2)(C) of such section.*

Calendar No. 354

115TH CONGRESS
2D SESSION
S. 2325

[Report No. 115-214]

A BILL

To incentivize the hiring of United States workers
in the Commonwealth of the Northern Mariana
Islands, and for other purposes.

MARCH 20, 2018

Reported with an amendment